

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

ROQUILLA COOPER,

Plaintiff,

v.

MIRAMED REVENUE GROUP, LLC,

Defendant.

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Civil Action No.

Jury Trial Demanded

COMPLAINT

ROQUILLA COOPER (“Plaintiff”), by her attorneys, KIMMEL & SILVERMAN, P.C.,
alleges the following against MIRAMED REVENUE GROUP, LLC (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”) and the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy;” 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States..

3. Venue is proper pursuant to 28 U.S.C. § 1391 (b)(2).

PARTIES

4. Plaintiff is a natural person residing in Dallas, Texas 75217.

5. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §1692a(3).

1 6. Plaintiff is a “person” as that term is defined by 47 U.S.C. §153(39).

2 7. Defendant is a debt collection company with corporate offices located at 360 E.
3 22nd Street, Lombard, Illinois 60148.

4 8. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §1692 a(6)
5 and sought to collect a debt from Plaintiff.

6 9. At all relevant times, Defendant acted as a “debt collector” within the meaning of
7 15 U.S.C. § 1692(a)(6), and attempted to collect a “debt” as defined by 15 U.S.C. § 1692(a)(5).

8 10. Debt collection is the principal purpose of Defendant’s business.

9 11. Defendant is a “person” as that term is defined by 47 U.S.C. §153(39).

10 12. Defendant acted through its agents, employees, officers, members, directors,
11 heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

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13 **FACTUAL ALLEGATIONS**

14 13. At all relevant times, Defendant attempted to collect a consumer debt and
15 contacted Plaintiff in its attempts to collect that debt.

16 14. Plaintiff does not have any business or commercial debts, so the debt in question
17 must be personal debt incurred primarily for personal, family, or household purposes.

18 15. Beginning in or around late 2016 and continuing through July 2017, Defendant
19 placed repeated, unwanted collection calls to Plaintiff’s cellular telephone.

20 16. Plaintiff received both live calls with real collectors as well as automated calls
21 that would include a pre-recorded voice or message.

22 17. Plaintiff received collection calls from telephone numbers including, but not
23 limited to: (866) 910-2605. The undersigned has confirmed the number as belonging to
24 Defendant.

25 18. During these calls, Defendant asked Plaintiff to confirm her name, address and

1 date of birth before it could provide information regarding the alleged debt being collected.

2 19. Citing reasonable security concerns, she refused to disclose her address and date
3 of birth to Defendant during their repeated calls, but did regularly confirm her name.

4 20. Shortly after calls began in or about 2016, Plaintiff spoke to Defendant and
5 insisted that their repeated calls stop.

6 21. Once Defendant was informed that its calls were unwanted and to stop calling,
7 there was no lawful purpose to placing further calls to her.

8 22. Further, once Defendant knew the calls were unwanted, any further calls could
9 only have been placed for the purpose of harassment.

10 23. However, Defendant failed to restrict calls to Plaintiff's cellular telephone and
11 continued to call her multiple times per day.

12 24. Plaintiff requested on several occasions through July 2017 that Defendant stop
13 calling her cellular telephone.

14 25. When contacting Plaintiff on her cellular telephone, Defendant used an automatic
15 telephone dialing system and/or pre-recorded voice.

16 26. Plaintiff knew Defendant was using an automatic telephone dialing system and/or
17 pre-recorded voice as she received calls that began with a recording.

18 27. Defendant's calls were not placed for emergency purposes.

19 28. During this time Plaintiff received calls prior to 8:00am and after 9:00pm.

20 29. Defendant also threatened to pursue legal action against Plaintiff in or around
21 early 2017.

22 30. Upon information and belief, Defendant did not intend to pursue legal action
23 against Plaintiff but made this threat in order to coerce payment from Plaintiff.

24 31. Further, Defendant failed to send written notification to Plaintiff setting forth her
25

1 rights pursuant to the FDCPA.

2 32. Frustrated, annoyed, and overwhelmed by Defendant's excessive calling,
3 Plaintiff downloaded an application to her cellular telephone to block Defendant's telephone
4 calls.

5
6 **COUNT I**
7 **DEFENDANT VIOLATED §§1692d and 1692d(5) OF THE FDCPA**

8 33. Section 1692d of the FDCPA prohibits debt collectors from engaging in any
9 conduct the natural consequence of which is to harass, oppress, or abuse any person in
10 connection with the collection of a debt.

11 34. Section 1692d(5) of the FDCPA prohibits debt collectors from causing the
12 telephone to ring or engaging any person in telephone conversation repeatedly with intent to
13 annoy, abuse or harass.

14 35. Defendant violated §§1692d and d(5) when it placed repeated harassing
15 telephone calls to Plaintiff and continued to call knowing its calls were unwanted.

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17 **COUNT II**
18 **DEFENDANT VIOLATED §§ 1692e, 1692e(5) AND 1692e(10) OF THE FDCPA**

19 36. Section 1692e of the FDCPA prohibits debt collectors from using any false,
20 deceptive, or misleading representation or means in connection with the collection of any debt.

21 37. Section 1692e(5) of the FDCPA prohibits debt collectors from threatening to take
22 action that cannot legally be taken or is not intended to be taken.

23 38. Section 1692e(10) of the FDCPA prohibits debt collectors from using of false
24 representation or deceptive means to collect or attempt to collect any debt or to obtain
25 information concerning a consumer.

1 39. Defendant violated §§ 1692e, 1692e(5), and 1692e(10) when it threatened to
2 pursue legal action against Plaintiff without the intent to take such action.

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4 **COUNT III**
5 **DEFENDANT VIOLATED § 1692c(a)(1) OF THE FDCPA**

6 40. A debt collector violates § 1692c(a)(1) if without the prior consent of the
7 consumer given directly to the debt collector or the express permission of a court of competent
8 jurisdiction, it contacts a consumer at an unusual time or place or a time or place known or which
9 should be known to be inconvenient to the consumer.

10 41. Defendant violated § 1692c(a)(1) when it contacted Plaintiff before 8:00am and
11 after 9:00pm.

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13 **COUNT IV**
14 **DEFENDANT VIOLATED § 1692g OF THE FDCPA**

15 42. A debt collector violates §1692g if within five days after initial communication
16 with a consumer, the debt collector fails to send the consumer a written notice containing (1) the
17 amount of the debt; (2) the name of the creditor to whom the debt is owed; (3) a statement that
18 unless the consumer, within thirty days after receipt of the notice, disputes the validity of the
19 debt, or any portion thereof, the debt will be assumed to be valid by the debt collector; (4) a
20 statement that if the consumer notifies the debt collector in writing within the thirty-day period
21 that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the
22 debt or a copy of a judgment against the consumer and a copy of such verification or judgment
23 will be mailed to the consumer by the debt collector; and (5) a statement that, upon the
24 consumer's written request within the thirty-day period, the debt collector will provide the
25 consumer with the name and address of the original creditor, if different from the current

1 creditor.

2 43. Defendant violated §1692g by failing to send written notification, within five (5)
3 days after its initial communication with Plaintiff, advising her of her rights to dispute the debt
4 or request verification of the debt.
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7 **COUNT V**
DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

8 44. Defendant's conduct, as detailed in the preceding paragraphs, violated the
9 Telephone Consumer Protection Act.

10 45. Under § 227(b)(3)(A) of the TCPA, a person or entity may bring a private cause
11 of action in an appropriate court based on a violation of the TCPA or the regulations prescribed
12 under the TCPA to enjoin such violation

13 46. Under § 227(b)(3)(B) of the TCPA, a person or entity may bring a private cause
14 of action in an appropriate court "to recover for actual monetary loss from such a violation, or to
15 receive \$500 in damages for each such violation whichever is greater."
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17 47. Despite the fact that Plaintiff having revoked any prior consent Defendant had
18 been provided, Defendant repeatedly placed non-emergency calls to Plaintiff's cellular
19 telephone.

20 48. Based upon the conduct of Defendant, Plaintiff avers that the enhancement of
21 damages provided for by the TCPA allowing for Plaintiff to recover up to \$1,500 per
22 call/violation be applied to calls placed.

23 49. Defendant's conduct violated § 227(b)(1)(A)(iii) of the TCPA by placing repeated
24 calls using an automatic telephone dialing system to Plaintiff's cellular telephone without prior
25 express consent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, ROQUILLA COOPER, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- b. Statutory damages of \$1,000.00 for each Plaintiff for the violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3);
- d. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);
- e. Statutory damages of \$500.00 per violative telephone call pursuant to 47 U.S.C. § 227(b)(3)(B);
- f. Treble damages of \$1,500.00 per violative telephone call pursuant to 47 U.S.C. § 227(b)(3);
- g. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);
- h. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, ROQUILLA COOPER, demands a jury trial in this case.

1 DATED: August 18, 2017

KIMMEL & SILVERMAN, P.C.

2 By: /s/Amy L. Bennecoff Ginsburg

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